



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 15, 1996

Ms. Mary Nichols
General Counsel
Texas Workers' Compensation Insurance Fund
221 West 6th Street, Suite 300
Austin, Texas 78701-3403

OR96-1877

Dear Ms. Nichols:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101320.

The Texas Workers' Compensation Insurance Fund (the "fund") received a request for "the names and addresses of all policy holders whose accounts have been sent for collections based on a premium audit since April 1, 1995 on diskette in ADCII format." You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. You also claim that no list or compilation of such information exists and that the fund is not required to create new information to respond to this request.

While a governmental body is not required to take affirmative steps to create or obtain information that is not in its possession, a governmental body must attempt to relate requests for information to information the governmental body has. Open Records Decision Nos. 561 (1990), 534 (1989). The fund indicated in correspondence that the fund has documents which "may relate to the information requested by Ms. Zimmerman." Therefore, we address whether the exceptions to disclosure claimed by the fund apply to this information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Article 5.76-3, § 2(b) of the Insurance Code provides that the fund may "refuse to release information relating to claims, rates, the Fund's underwriting guidelines, and other information that would give advantage to competitors or bidders." You note that in Open Records Letter No. 95-1453 (1995), this office concluded that release of information concerning the fund's customers could give an advantage to the fund's competitors. We believe that here, where a partial list of the

fund's customers is being requested, article 5.76-3, § 2(b) as applied through section 552.101 of the Government Code excepts the requested information from required public disclosure.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script that reads "Stacy E. Sallee".

Stacy E. Sallee
Assistant Attorney General
Open Records Division

SES/ch

Ref.: ID# 101320

Enclosures: Submitted documents

cc: Ms. Catherine Zimmerman
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(w/o enclosures)